IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.328 of 1999

Between:

1. P.Jagannadham, S/o.Venkata Rao, 53 years.
2. B.Satyanarayana, S/o.Neelakantam, 54 years.
3. B.Veera Venkaiah, S/o.Peda Viswanadham, 48 years.
4. M.Agastewarlu, S/o.Reraiah, 55 years.
5. P.Viswanadha Sarma, S/o.Jagannadham, 35 years.

(All are Archakas,r/o.Vadali Village, Penugonda (M), West Godavari District).

...PETITIONERS

AND

1. The Government of A.P., Rep.by its Secretary, Social Welfare Department, Secretariat, Hyderabad.
2. The Government of A.P., Rep.by its Secretary, Revenue Department, Secretariat, Hyderabad.
3. The Commissioner of Endowments, Tilak Road, Hyderabad.
4. The District Collector, West Godavari District, Eluru.
5. The M.R.O., Penugonda (M), Penugonda, West Godavari District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to a Writ, order or orders or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in initiating the proceedings to acquire Acs.4.93 cents of land in R.S.No.67 of Vadali village, Penugonda Mandal, West Godavari District, belongs to Agasteeswara Swamy Temple which is in the possession of last 16 years is illegal and arbitrary, unconstitutional and violative of mandatory provisions under Land Acquisition act, 1894, and also declare that the acquisition proceedings initiated for acquiring the above said land, which is in possession of petitioners herein are violative of the guidelines incorporated in G.O.M.S.No.456, dated 29.09.1995 and further direct the respondents to drop the proceedings in respect of the above said lands.

Counsel for the Petitioners: SMT.A.BHARATA LAKSHMI KUMARI

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following:

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ORDER:

The petitioners claim to be hereditary Archakas of Sri Agasteeswara Swamy Vari Temple, Vadali Village, Penugonda Mandal, West Godavari District. They also allege that since the year 1928, the petitioners and their predecessors were enjoying the hereditary right in respect of the land admeasuring Acs.4.93 cents belonging to the temple. In this Writ Petition, they seek a Writ of Mandamus declaring the action of the respondents in initiating proceedings to acquire the said land is illegal and arbitrary besides being contravention of the provisions of the Land Acquisition act, 1894. This Court, while admitting the Writ Petition on 12.01.1999, passed interim orders directing the respondents not to dispossess the petitioners. It is brought to the notice of this Court that even before the interim order is communicated to the respondents, the notification under Section 4 (1) of the above Act was issued on 22.01.1999.

The petitioners herein claim hereditary rights in the lands. After Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 ('the Act' for brevity) came into force, by reason of Sections 34 and 144 of the said Act, the hereditary rights of Archakas and Mirasidars stand abolished. Therefore, the petitioners cannot claim any vested rights. However, if the petitioners are cultivating the lands as tenants by reason of Section 82 (1) of the Act, the lease, if any, stands cancelled and if the petitioners want to avail the benefit under Section 82 (2) of the Act, they have to approach the Assistant Commissioner for Endowments under the relevant rules. Being the tenants or persons in occupation, they cannot impugn the land acquisition proceedings which are already initiated by the respondents. It is however open to them to claim share in compensation if the law permits them to do so. It is open to the petitioners to participate in the award enquiry before the Land Acquisition Officer. In this Writ Petition, there cannot be any order preventing the respondents from acquiring the lands belonging to Sri Agasteeswara Swamy

Temple.

The Writ Petition, with the above observations, is disposed of.

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(V.V.S.RAO, J)

9th August 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, Government of A.P., Social Welfare Department, Secretariat, Hyderabad.
2. The Secretary, Government of A.P., Revenue Department, Secretariat, Hyderabad.
3. The Commissioner of Endowments, Tilak Road, Hyderabad.
4. The District Collector, West Godavari District, Eluru.
5. The M.R.O., Penugonda (M), Penugonda, West Godavari District.
6. Two CCs to G.P. for Land Acquisition, High Court Buildings, Hyderabad (OUT).
7. Two CD copies.